

ATTORNEYS AT LAW

Docket No.: 292752US0PCT

ATTENTION: MAGDALEN GREENLIEF
OFFICE OF THE DEPUTY COMMISSIONER
PATENT EXAMINATION POLICY

COMMISSIONER FOR PATENTS
ALEXANDRIA, VIRGINIA 22313

RE: Application Serial No.: 10/583,558
Applicants: Naoki HOSOYA, et al.
Filing Date: June 19, 2006
For: BOTTLED BEVERAGE
Group Art Unit: 1761
Examiner:

SIR:

Attached hereto for filing are the following papers:

Request for Participation in the Patent Prosecution Highway (PPH) Pilot Program Between the
(1) JPO or (2) UKIPO, and the USPTO w/Attached Appendices A through J

Our credit card payment form in the amount of \$130.00 is attached covering any required fees.
In the event any variance exists between the amount enclosed and the Patent Office charges for filing the
above-noted documents, including any fees required under 37 C.F.R. 1.136 for any necessary Extension
of Time to make the filing of the attached documents timely, please charge or credit the difference to our
Deposit Account No. 15-0030. Further, if these papers are not considered timely filed, then a petition is
hereby made under 37 C.F.R. 1.136 for the necessary extension of time. A duplicate copy of this sheet
is enclosed.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.

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I hereby certify that this correspondence is being facsimile transmitted to:

Commissioner for Patents
Alexandria, VA 22313-1450**ATTENTION: MAGDALEN GREENLIEF
OFFICE OF THE DEPUTY COMMISSIONER
PATENT EXAMINATION POLICY
FAX NO. 571-273-0125**on Date: September 21, 2007Signature: 

Jacob A. Doughty

Total number of pages including this page: 87

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WWW.OBLOM.COMOSMM&N File No. 292752US0PCTSerial No. 10/583,558In the matter of the Application of: Naoki HOSOYA, et al.For: BOTTLED BEVERAGEDept.: ChemicalBy: NFO/IAD/dlcDue Date: N/A

- Credit Card Form for \$130.00
- Dep. Acct. Order Form
- Request for Participation in the Patent Prosecution Highway (PPH) Pilot Program Between the (1) JPO or (2) UKIPO, and the USPTO
- Appendix A - Explanation of Circumstances Concerning Accelerated Examination
- Appendix B - Notice of Reasons for Rejection
- Appendix C - Copy of Claims Determined to be Patentable by JPO
- Appendix D - English Language Translation of Explanation of Circumstances Concerning Accelerated Examination
- Appendix E - English Language Translation of Notice of Reasons for Rejection
- Appendix F - English Language Translation of Copy of Claims Determined to be Patentable by JPO
- Appendix G - Statement Regarding Accuracy of English Language Translations
- Appendix H - Information Disclosure Statement w/PTO 1449 and Cited References 7
- Appendix I - Preliminary Amendment
- Appendix J - Claims Correspondence Table

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REQUEST FOR PARTICIPATION IN THE PATENT PROSECUTION HIGHWAY (PPH) PILOT PROGRAM BETWEEN THE (1) JPO OR (2) UKIPO, AND THE USPTO

Application No.:	10/583,558	First Named Inventor:	Masaki IWASAKI
Filing Date:	June 19, 2006	Attorney Docket No.:	292752US0PCT

Title of the Invention:	BOTTLED BEVERAGE
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THIS REQUEST FOR PARTICIPATION IN THE PPH PILOT PROGRAM MUST BE FAXED TO:
 THE OFFICE OF THE COMMISSIONER FOR PATENTS AT 571-273-0125 DIRECTED TO THE ATTENTION OF MAGDALEN GREENLIEF

APPLICANT HEREBY REQUESTS PARTICIPATION IN THE PATENT PROSECUTION HIGHWAY (PPH) PILOT PROGRAM AND PETITIONS TO MAKE THE ABOVE-IDENTIFIED APPLICATION SPECIAL UNDER THE PPH PILOT PROGRAM.

The above-identified application validly claims priority under 35 U.S.C. 119(a) and 37 CFR 1.55 to one or more corresponding JPO application(s) or UKIPO application(s).

The ☒ JPO ☐ UKIPO application number(s) is/are: 2003-420908

The filing date of the ☒ JPO ☐ UKIPO application(s) is/are: December 18, 2003

I. List of Required Documents:

- a. A copy of all JPO office actions (excluding "Decision to Grant a Patent") in the above-identified JPO application(s), or a copy of all UKIPO office actions in the above-identified UKIPO application(s).

☒ Is attached. (See Appendices A and B attached hereto.)

☐ Is available via Dossier Access System. Applicant hereby requests that the USPTO obtain these documents via the Dossier Access System.

*It is not necessary to submit a copy of the "Decision to Grant a Patent" and an English translation thereof.

- b. A copy of all claims which were determined to be patentable by the JPO in the above-identified JPO application(s), or a copy of all claims which were determined to be patentable by the UKIPO in the above-identified UKIPO application(s).

☒ Is attached. (See Appendix C attached hereto.)

☐ Is available via Dossier Access System. Applicant hereby requests that the USPTO obtain these documents via the Dossier Access System.

- c. English translations (where applicable) of the documents in a. and b. above along with a statement that the English translations are accurate are attached. (See Appendices D to G attached hereto.)

Information disclosure statement listing the documents cited in the JPO office actions or UKIPO office actions is attached.

Copies of all documents are attached except for U.S. patents or U.S. patent application publications. (See Appendix H attached hereto.)

[Page 1 of 2]

This collection of information is required by 35 U.S.C. 119, 37 CFR 1.55, and 37 CFR 1.102(d). The information is required to obtain or retain a benefit by the public, which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. FAX COMPLETED FORMS TO: Office of the Commissioner for Patents at 571-273-0125, Attention: MagdaLen GreenlieF.

PTO/SB/20 (09-07)

Approved for use through 12/31/2008. OMB 0651-0058

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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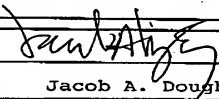
**REQUEST FOR PARTICIPATION IN THE PATENT PROSECUTION HIGHWAY (PPH) PILOT PROGRAM
BETWEEN THE (1) JPO OR (2) UKIPO, AND THE USPTO**
(continued)

Application No.:	10/583,558	First Named Inventor:	Masaki IWASAKI
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II. Claims Correspondence Table:

Claims In US Application	Patentable Claims in JP/UKIPO Application	Explanation regarding the correspondence
		(See Appendices I and J attached hereto.)

**III. All the claims in the US application sufficiently correspond to the patentable/allowable claims in the
JPO or UKIPO application.****IV. Payment of Fees:**The Commissioner is hereby authorized to charge the petition fee under 37 CFR 1.17(h) as required by 37 CFR 1.102(d) to ☐ Deposit Account No. _____☒ Credit Card. Credit Card Payment Form (PTO-2038) is attached.

Signature		Date	9/21/07
Name (Print/Typed)	Jacob A. Doughty	Registration Number	46,671

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

Request for Participation in the Patent
Prosecution Highway Pilot Program
U.S. Patent Application No. 10/583,558
Attorney Docket No. 292752USOPCT

APPENDIX J

Claims Correspondence Table

Request for Participation in the Patent
Prosecution Highway Pilot Program
U.S. Patent Application No. 10/583,558
Attorney Docket No. 292752USOPCT

CLAIMS CORRESPONDENCE TABLE

Claims in US Application	Patentable Claims in JP Application	Explanation regarding the correspondence
Claim 1	Claim 1	Claim 1 of the US application is substantially identical to claim 1 of the JP application.
Claim 2	--	Claim 2 of the US application has been cancelled.
Claim 3	Claim 2	Claim 3 of the US application is substantially identical to claim 2 of the JP application.
Claim 4	Claim 3	Claim 4 of the US application is substantially identical to claim 3 of the JP application. US claim 4 differs from JP claim 5 only in that US claim 4 depends solely from US claim 1, while JP claim 3 depends from JP claim 1 or JP claim 2.
Claim 5	Claim 4	Claim 5 of the US application is substantially identical to claim 4 of the JP application. US claim 5 differs from JP claim 4 only in that US claim 5 depends solely from US claim 1, while JP claim 4 depends from any of JP claims 1-3.
Claim 6	Claim 5	Claim 6 of the US application is substantially identical to claim 5 of the JP application. US claim 6 differs from JP claim 5 only in that US claim 6 depends solely from US claim 1, while JP claim 5 depends from any of JP claims 1-4.
Claim 7	Claim 6	Claim 7 of the US application is substantially identical to claim 6 of the JP application. US claim 7 differs from JP claim 6 only in that US claim 7 depends solely from US claim 1, while JP claim 6 depends from any of JP claim 5.
Claim 8	Claim 7	Claim 8 of the US application is substantially identical to claim 7 of the JP application. US claim 8 differs from JP claim 7 only in that US claim 8 depends from US claim 6, while JP claim 7 depends from any of JP claim 5.
Claim 9	Claim 8	Claim 9 of the US application is substantially identical to claim 8 of the JP application. US claim 9 differs from JP claim 8 only in that US claim 9 depends solely from US claim 1, while JP claim 8 depends from any of JP claims 1-7.

Request for Participation in the Patent
Prosecution Highway Pilot Program
U.S. Patent Application No. 11/190,857
Attorney Docket No. 276112US0

CLAIMS CORRESPONDENCE TABLE (cont'd)

Claims in US Application	Patentable Claims in JP Application	Explanation regarding the correspondence
Claim 10	Claim 9	Claim 10 of the US application is substantially identical to claim 9 of the JP application. US claim 10 differs from JP claim 9 only in that US claim 10 depends solely from US claim 1, while JP claim 9 depends from any of JP claims 1-8.

Request for Participation in the Patent
Prosecution Highway Pilot Program
U.S. Patent Application No. 10/583,558
Attorney Docket No. 292752US0PCT

APPENDIX C

Copy of Claims Determined to be Patentable by JPO

Request for Participation in the Patent
Prosecution Highway Pilot Program
U.S. Patent Application No. 10/583,558
Attorney Docket No. 292752US0PCT

APPENDIX F

English-Language Translation of Copy of Claims Determined to
be Patentable by JPO

Request for Participation in the Patent
Prosecution Highway Pilot Program
U.S. Patent Application No. 10/583,558
Attorney Docket No. 292752US0PCT

APPENDIX G

Statement Regarding Accuracy of English-Language Translations

DOCKET NO: 292752US0PCT

IN THE UNITED STATES PATENT & TRADEMARK OFFICE

IN RE APPLICATION OF :
NAOKI HOSOYA, ET AL. : EXAMINER:
SERIAL NO: 10/583,558 :
FILED: JUNE 19, 2006 : GROUP ART UNIT: 1761
FOR: BOTTLED BEVERAGE :

STATEMENT REGARDING ACCURACY OF ENGLISH-LANGUAGE
TRANSLATIONSCOMMISSIONER FOR PATENTS
ALEXANDRIA, VIRGINIA 22313

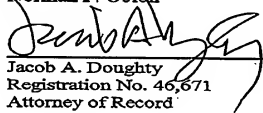
SIR:

Applicants state that the English-language translations provided as Appendices D-F to the Request for Participation in the Patent Prosecution Highway (PPH) Pilot Program and Petition to Make Special under the PPH Pilot Program, filed herewith, are accurate.

Respectfully submitted,

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JP 3590051 B1

2004.11.17

CLAIMS

- [1] A packaged beverage of pH 2 to 6 with a green tea extract mixed therein, comprising the following ingredients (A) and (B):
- (A) from 0.01 to 1.0 wt% of non-polymer catechins, and
- (B) a carbohydrate selected from the group consisting of monosaccharide, disaccharide, oligosaccharide, complex polysaccharide and a mixture thereof, having a weight percent of 0.0001 to 20 in terms of glucose and a weight present of less than 0.05 in terms of fructose.
- [2] The packaged beverage according to claim 1, wherein said beverage is a non-tea-based beverage.
- [3] The packaged beverage according to claim 1 or 2, wherein said beverage further comprises 0.001 to 0.5 wt.% of sodium ion and 0.001 to 0.2 of potassium ion.
- [4] The packaged beverage according to any one of claims 1-3, which has a pH of from 2 to 5.
- [5] The packaged beverage according to any one of claims 1 to 4, further comprising an oxalic acid or a salt thereof, wherein a content weight ratio [(C)/(A)] of said oxalic acid or a salt thereof (C) to said non-polymer catechins (A) is 0.2 or less.
- [6] The packaged beverage according to any one of claims 1-5, wherein said green tea extract as a raw material is

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one obtained by adjusting a concentrate of green tea extract, said concentrate comprising from 20 to 90 wt% of non-polymer catechins based on a solid content thereof, such that said content weight ratio $[(C)/(A)]$ of said oxalic acid or a salt thereof (C) to said non-polymer catechins (A) is 0.2 or less.

[7] The packaged beverage according to claim 5, wherein said content weight ratio $[(C)/(A)]$ of said oxalic acid or a salt thereof (C) to said non-polymer catechins (A) is 0.5 or less

[8] The packaged beverage according to any one of claims 1-7, which is in such a form that at least 300 mg of non-polymer catechins can be ingested per day.

[9] The packaged beverage according to any one of claims 1-8, which is filled in a clear container.

F50781

JP 3590051 B1 2004.11.17

(19) 日本国特許庁(JP)

(12) 特 許 公 報(B1)

(11) 特許番号

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(F3590051)

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(24) 発露日 平成16年8月27日(2004.8.27)

(51) Int. Cl.⁷

F1

A23L 2/52
A23F 3/16A23L 2/00
A23F 3/16

F

請求項の数 9 (全 13 頁)

(21) 出願番号	特願2003-420908 (P2003-420908)	(73) 特許権者	000000918
(22) 出願日	平成15年12月18日 (2003.12.18)		花王株式会社
審査請求日	平成16年2月2日 (2004.2.2)		東京都中央区日本橋茅場町1丁目14番1 0号
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(32) 優先日	平成15年7月30日 (2003.7.30)		特許業務法人アルガ特許事務所
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(54) 【発明の名称】 容器詰飲料

(57) 【特許請求の範囲】

【請求項1】

緑茶抽出物を配合した容器詰飲料であって、次の成分(A)及び(B)

- (A) 非重合体カテキン類 0.01~1.0重量%、
 (B) 単糖、二糖、オリゴ糖、複合多糖及びそれらの混合物から選ばれる炭水化物
 グルコース換算量 0.0001~2.0重量%、
 フルクトース換算量 0.05重量%未満

を含有し、pHが2~6である容器詰飲料。

【請求項2】

飲料が非茶系飲料である請求項1記載の容器詰飲料。

【請求項3】

更にナトリウムイオン0.001~0.5重量%、及びカリウムイオン0.001~0.2重量%を含有する請求項1又は2記載の容器詰飲料。

【請求項4】

pHが2~5である請求項1~3のいずれか1項記載の容器詰飲料。

【請求項5】

更にシュウ酸、又はその塩を含有し、(C) シュウ酸、又はその塩と(A) 非重合体カテキン類との含有重量比[(C)/(A)]が0.2以下である請求項1~4のいずれか1項記載の容器詰飲料。

【請求項6】

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監修 日本国特許庁

(13)

JP 3590051 B1. 2004. 11. 17

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審査官 鈴木 恵理子

- (56)参考文献 特開平05-168407 (J P, A)
特開平03-228667 (J P, A)

- (58)調査した分野(Int. Cl.⁷, D B名)
A 23 L 2/00~68
A 23 F 3/16~42

(2)

JP 3590051 B1 2004.11.17

原料緑茶抽出物が、固形分中に非重合体カテキン類を20～90重量%含有する緑茶抽出物の濃縮物を、(C) シュウ酸、又はその塩と(A) 非重合体カテキン類との含有重量比[(C)/(A)]が0.2以下になるように調整したものである請求項1～5のいずれか1項記載の容器詰飲料。

【請求項7】

(C) シュウ酸、又はその塩と(A) 非重合体カテキン類との含有重量比[(C)/(A)]が0.05以下である請求項5記載の容器詰飲料。

【請求項8】

非重合体カテキン類として1日300mg以上摂取できる形態である請求項1～7のいずれか1項記載の容器詰飲料。

【請求項9】

透明容器に充填されたものである請求項1～8のいずれか1項記載の容器詰飲料。

【発明の詳細な説明】

【技術分野】

【0001】

本発明は緑茶抽出物を配合したカテキンを高濃度に含有し、苦味、渋味が低減され長期間の飲用に適し、また苦味、渋味の安定性及び喉越しに優れ、透明容器での高温保存時に色調安定性に優れた容器詰飲料に関する。

【背景技術】

【0002】

カテキン類の効果としてはコレステロール上昇抑制作用やアミラーゼ活性阻害作用などが報告されている(例えば、特許文献1、2参照)。カテキン類のこのような生理効果を発現させるためには、成人一日あたり4～5杯のお茶を飲むことが必要であることから、より簡便に大量のカテキン類を摂取するために、飲料にカテキン類を高濃度配合する技術が望まれている。この方法の一つとして、緑茶抽出物の濃縮物(例えば、特許文献3～5参照)などを利用して、カテキン類を飲料に溶解状態で添加する方法がある。

【0003】

しかしながら、市販の緑茶抽出物の濃縮物をそのまま用いると、緑茶抽出物の濃縮物に含まれる成分の影響によって渋味や苦味が強く、また喉越しが悪くカテキンによる生理効果を発現させる上で必要となる長期間の飲用には向かなかった。一方、長期間の飲用に不向きな要素の一つである渋味を低減する方法として、デキストリンを配合する方法があるが、カテキン類を高濃度に配合する場合、これだけでは不十分であるという問題があった。また甘味料が入る飲料系であっても、市販の緑茶抽出物の濃縮物をそのまま用いるとその渋味や苦味は強く、また緑茶由来の不要な風味があり、苦味、渋味が特に高温保存時に変化する現象があり、苦味、渋味の安定性に優れず長期間飲用する目的には向かなかった(例えば特許文献6)。また緑茶抽出物と糖類を配合した飲料では、緑茶抽出液又は緑茶抽出物を配合した飲料と比較して、外観が高温保存時に変化しやすく、透明容器に充填して長期間色調が安定でなかった。

【特許文献1】特開昭60-156614号公報

【特許文献2】特開平3-133928号公報

【特許文献3】特開2002-142677号公報

【特許文献4】特開平8-298930号公報

【特許文献5】特開平8-109178号公報

【特許文献6】特表平10-501407号公報

【発明の開示】

【発明が解決しようとする課題】

【0004】

本発明の目的は、高濃度のカテキン類を含有し、緑茶抽出物を使用しても苦味、渋味が低減され長期間の飲用に適し、また苦味、渋味の安定性及び喉越しに優れ、また、飲料の外観が高温保存時に変化しにくく、透明容器に充填して長期間色調が安定である容器詰飲料

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Request for Participation in the Patent
Prosecution Highway Pilot Program
U.S. Patent Application No. 10/583,558
Attorney Docket No. 292752US0PCT

APPENDIX A

Explanation of Circumstances Concerning Accelerated Examination

Request for Participation in the Patent
Prosecution Highway Pilot Program
U.S. Patent Application No. 10/583,558
Attorney Docket No. 292752US0PCT

APPENDIX D

English-Language Translation of Explanation of Circumstances
Concerning Accelerated Examination

Explanation KS0781

[Name of Document] The Explanation of Circumstances
Concerning Accelerated Examination

[Destination] Commissioner of the Patent Office

[Indication of Case]

[Application Number] Japanese Patent Application No.
2003-420908

[Submitting Person]

[Identification Number] 000000918

[Name or Appellation] KAO CORPORATION

[Attorney]

[Identification Number] 110000064

[Name or Appellation] The Patent Corporate Body Aruga
Patent Office

[Representative] NAKAJIMA Toshio

[Explanation of Circumstances Concerning Accelerated
Examination]

1. Circumstances

The accelerated examination relates to a packaged beverage disclosed in Claim 1 of the present invention, which is scheduled to be manufactured from January, 2005. As disclosed in Claim 1, the packaged beverage is a packaged beverage having pH of from 2 to 6 with a green-tea extract mixed therein, comprising specific contents of non-polymer catechins; and, as a sweetener, a carbohydrate substance of which equivalent glucose content and equivalent fructose content are in specific range.

Explanation KS0781

2. Prior Art And Comparison

(1) Prior Art Documents

The applicant sufficiently discloses prior art documents in Paragraphs [0002] and [0003] of the Specification. The prior art documents disclosed by the applicant are as follows.

- a. Japanese Patent Application Laid-Open No. 60-156614
- b. Japanese Patent Application Laid-Open No. 3-133928
- c. Japanese Patent Application Laid-Open No. 2002-142677
- d. Japanese Patent Application Laid-Open No. 8-298930
- e. Japanese Patent Application Laid-Open No. 8-109178
- f. Japanese Patent Application National Publication No. 10-501407

g. Japanese Patent No. 3378577

(2) Comparison

1) The present invention discloses a packaged beverage as described in Claims.

(Claim 1) A packaged beverage having pH of from 2 to 6 with a green-tea extract mixed therein, comprising the following ingredients (A) and (B):

(A) 0.01 to 1.0 wt% of non-polymer catechins;

(B) a carbohydrate substance having an equivalent glucose content of from 0.0001 to 20 wt% and an equivalent fructose content of less than 0.05 wt%.

(Claim 2) The packaged beverage according to claim 1, wherein the packaged beverage is a non-tea-based beverage.

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(Claim 3) The packaged beverage according to claim 1 or 2, wherein the packaged beverage further comprises 0.001 to 0.5 wt% of sodium ions and 0.001 to 0.2 wt% of potassium ions.

(Claim 4) The packaged beverage according to any one of claims 1 to 3, wherein the pH of the packaged beverage is in a range of from 2 to 5.

(Claim 5) The packaged beverage according to any one of claims 1 to 4, further comprising an oxalic acid or a salt thereof, wherein a content weight ratio $[(C)/(A)]$ of the oxalic acid or the salt thereof (C) to the non-polymer catechins (A) is equal to or less than 0.2.

(Claim 6) The packaged beverage according to any one of claims 1 to 5, wherein the green-tea extract as a raw material is obtained by adjusting a concentrate of the green-tea extract containing 20 to 90 wt% of the non-polymer catechins in a solid content, such that the content weight ratio $[(C)/(A)]$ of the oxalic acid or the salt thereof (C) to the non-polymer catechins (A) is equal to or less than 0.2.

(Claim 7) The packaged beverage according to claim 5, wherein the content weight ratio $[(C)/(A)]$ of the oxalic acid or the salt thereof (C) to the non-polymer catechins (A) is equal to or less than 0.05.

(Claim 8) The packaged beverage according to any one of claims 1 to 7, wherein the packaged beverage is in such a form that 300 mg or more of the non-polymer catechins can be ingested per day.

(Claim 9) The packaged beverage according to any one of

Explanation K90781

claims 1 to 8, wherein the packaged beverage is filled in a transparent container.

As described above, the packaged beverage according to the present invention is obtained by mixing a green-tea extract therein to contain a high concentration of non-polymer catechins, adjusting an equivalent glucose content of a carbohydrate substance as a sweetener to be in a range of from 0.0001 to 20 wt%, adjusting an equivalent fructose content thereof to be 0.05 wt%, and adjusting pH to be in range of from 2 to 6. By employing features as such, it is possible to obtain advantages in that the packaged beverage contains a high concentration of the non-polymer catechins, has no different taste and flavor from those of a green tea, has reduced bitterness and astringency so as to be suitable for long-term drinking, has a stability of bitterness and astringency and a good swallow feeling, remains a long-term stability of color tone during a high temperature storage in a transparent container, and is particularly useful as a non-tea-based packaged beverage.

ii)

A. The document (a) discloses that tea catechins is useful as a cholesterol level suppressor. In addition, the document (b) discloses that tea polyphenol of the tea catechins or the like is useful as an α -amylase activation suppressor.

However, the packaged beverage containing the non-polymer catechins is not disclosed in the documents (a) and (b). In addition, the object of the present invention such as

Explanation KS0781

a problem caused from long-term drinking, the containing of a high concentration of the non-polymer catechins and the mixing of an equivalent fructose content of carbohydrate substance to be less than 0.05 wt% are not disclosed, or suggested.

B. The document (c) discloses a packaged beverage containing dissolved catechins of non-epi catechins (A) and epi catechins (B), wherein contents thereof are (a) (A)+(B)=460 to 2500 mg, (b) (A)=160 to 2250 mg, (c) (A)/(B)=0.54 to 0.90 per 500 mL beverage packaged in a container. In addition, the document (c) also discloses a packaged beverage manufacturing method, in which a concentrate of a green-tea extract is mixed and a sweetener may be mixed.

However, in the document (c), the most important feature of the present invention, that is, mixing of an equivalent fructose content of carbohydrate substance to be less than 0.05 wt% in the packaged beverage containing the non-polymer catechins is not disclosed.

C. The document (d) disclose a tea beverage having reduced astringency by saccharide distribution of a polyphenol and, more specifically, a method of manufacturing a tea extract or a tea beverage having reduced astringency by mixing a tea extract or a tea beverage with at least one of dextrin, cyclo-dextrin, and starch and reacting cyclo-malto dextrin glucanotransferase thereon.

In addition, the document (e) discloses a method of manufacturing a low-caffeine tea polyphenol by dissolving or suspending a tea extract in water or a water-containing organic

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solvent and contacting it with a synthetic adsorptive under an alkali condition to remove caffeine.

However, in the documents (d) and (e), the object of the present invention such as improvement of taste and flavor invulnerable to long-term drinking, improvement of a stability of bitterness and astringency and a swallow feeling, and improvement of a stability of color tone during a high temperature storage of the packaged beverage containing the non-polymer catechins are not disclosed. In addition, in the documents (d) and (e), the most important feature of the present invention, that is, the mixing of carbohydrate substance, mixing of an equivalent fructose content of carbohydrate substance to be less than 0.05 wt% in the packaged beverage containing the non-polymer catechins are not disclosed, or suggested.

D. The document (f) discloses a fluid composite comprising (a) 0.01 to 0.35% of flavanol, (b) 0.01 to 0.3% of sodium ions, (c) 0.005 to 0.08% of potassium ions, (d) 0.1 to 20% of a carbohydrate substance supplying (i) 0.05 to 10.0% of fructose and (ii) 0.05 to 10.0% of glucose, and (e) water. As an example of the flavanol, catechins is disclosed therein.

However, in the document (f), the object of the present invention such as improvement of taste and flavor invulnerable to long-term drinking, improvement of a stability of bitterness and astringency and a swallow feeling, and improvement of a stability of color tone during a high temperature storage of the packaged beverage containing the non-polymer catechins are

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not disclosed. In the document (f), 0.05% or more of glucose and 0.05% or more of fructose are mixed. Therefore, the most important feature of the present invention, that is, the mixing of carbohydrate substance, mixing of an equivalent fructose content of carbohydrate substance to be less than 0.05 wt% in the packaged beverage containing the non-polymer catechins are not disclosed, or suggested.

E. The document (g) discloses a beverage with a concentrate or a refined material of a tea extract therein, wherein the beverage contains (A) non-polymer catechins and (B) a quinic acid, and wherein a content weight ratio [(B)/(A)] of the ingredient (B) to the ingredient (A) is in a range of from 0.01 to 1.0. In addition, the document (g) also discloses a beverage containing an oxalic acid of which content is equal to or less than the content of the ingredient (B).

Although a residing feeling unique to the catechins after drinking is disclosed, in the document (g), the object of the present invention such as improvement of taste and flavor invulnerable to long-term drinking, improvement of a stability of bitterness and astringency and a swallow feeling, and improvement of a stability of color tone during a high temperature storage of the packaged beverage containing the non-polymer catechins are not disclosed. In addition, in the document (g), the feature of the present invention, that is, the adjustment of the equivalent glucose content and the equivalent fructose content in specific ranges is not disclosed. Although the adjustment of the ratio of the quinic acid to the

Explanation KS0781

non-polymer catechins in a specific range is disclosed, it is not disclosed or suggested that the problems described in the present invention can be overcome due to the packaged beverage obtained by mixing specific contents of the equivalent glucose content and the equivalent fructose content.

F. As described above, in any one of the documents (a) to (g), the important features of the present invention, that is, the mixing of an equivalent glucose content of a carbohydrate substance to be in a range of from 0.0001 to 20 wt% and the mixing of an equivalent fructose content thereof to be less than 0.05 wt% in a packaged beverage with a high concentration of non-polymer catechins therein are not disclosed, or suggested.

According to the present invention, as disclosed in Paragraph [0010] and Table 1 of the specification, a packaged beverage obtained by mixing 0.01 to 1.0 wt% of non-polymer catechins, mixing an equivalent glucose content of a carbohydrate substance to be in a range of from 0.0001 to 20 wt%, and mixing an equivalent fructose content thereof to be less than 0.05 wt% can have useful advantages such as a long-term drinking ability, a stability of bitterness and astringency, a good swallow feeling, and a stability of color tone in comparison with a packaged beverage comprising 0.05% or more of the equivalent content of the carbohydrate substance (see Comparison Examples in Table 1).

Therefore, it is obvious that the present invention cannot be easily derived from any combinations of the documents

Explanation KS0781

(a) to (g) by the ordinarily skilled in the art.

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整理番号: 特願2003-420908 (Proqf) 提出日:平成16年 2月 2日

【書類名】 早期審査に関する事情説明書

【あて先】 特許庁長官 殿

【事件の表示】

【出願番号】 特願2003-420908

【提出者】

【識別番号】 000000918

【氏名又は名称】 花王株式会社

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【氏名又は名称】 特許業務法人アルガ特許事務所

【代表者】 中嶋 俊夫

【早期審査に関する事情説明】

1. 事情

請求項1に記載されているように、緑茶抽出物を配合し、非重合体カテキン類を一定量含有し、かつ甘味成分としての炭水化物をグルコース換算量とフルクトース換算量が一定範囲内にあるpH2～6の容器詰飲料を、平成17年1月より生産開始する予定の実施関連発明である。

2. 先行技術及び対比説明

(1) 文献名

出願人は明細書段落(0002)及び(0003)において先行技術を十分に開示している。現在出願人が把握している先行技術文献は以下の通りである。

- a. 特開昭60-156614号公報
- b. 特開平3-133928号公報
- c. 特開2002-142677号公報
- d. 特開平8-298930号公報
- e. 特開平8-109178号公報
- f. 特表平10-501407号公報

g. 特許第3378577号公報

(2) 対比説明

i) 本願発明は、特許請求の範囲に記載されたとおりの、

「(請求項1) 緑茶抽出物を配合した容器詰飲料であって、次の成分(A)及び(B)

(A) 非重合体カテキン類

0.01～1.0重量%、

(B) 炭水化物

グルコース換算量0.001～20重量%、

フルクトース換算量0.05重量%未満

を含有し、pHが2～6である容器詰飲料。

(請求項2) 飲料が非茶系飲料である請求項1記載の容器詰飲料。

(請求項3) 更にナトリウムイオン0.001～0.5重量%、及びカリウムイオン0.001～0.2重量%を含有する請求項1又は2記載の容器詰飲料。

(請求項4) pHが2～5である請求項1～3のいずれか1項記載の容器詰飲料。

(請求項5) 更にシュウ酸、又はその塩を含有し、(C) シュウ酸、又はその塩と

(A) 非重合体カテキン類との含有重量比[(C)/(A)]が0.2以下である請求項1～4のいずれか1項記載の容器詰飲料。

(請求項6) 原料緑茶抽出物が、固形分中に非重合体カテキン類を20～90重量%含有する緑茶抽出物の濃縮物を、(C) シュウ酸、又はその塩と(A) 非重合体カテキン類との含有重量比[(C)/(A)]が0.2以下になるように調整したものである請求項1～5のいずれか1項記載の容器詰飲料。

(請求項7) (C) シュウ酸、又はその塩と(A) 非重合体カテキン類との含有重量比[(C)/(A)]が0.05以下である請求項5記載の容器詰飲料。

(請求項8) 非重合体カテキン類として1日300mg以上摂取できる形態である請

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求項1～7のいずれか1項記載の容器詰飲料。

(請求項9) 透明容器に充填されたものである請求項1～8のいずれか1項記載の容器詰飲料。」
に係るものである。

本願発明の容器詰飲料は、上記の如く、緑茶抽出物を配合して非重合体カテキン類を高濃度に含有し、甘味成分としての炭水化物をグルコース換算量0.0001～20重量%、フルクトース換算量0.05重量%に調整し、かつpHを2～6に調整したことを特徴とするものであり、このような構成を採用することにより、「非重合体カテキン類を高濃度含有し、かつ緑茶風味の他異味・異臭がなく、苦味、渋味が低減され長期間の飲用に適し、また苦味、渋味の安定性及び喉越しに優れ、また、透明容器に充填して高温保存しても長期間色調が安定であり、特に非茶系容器詰飲料として有用である」という効果を有するものである。

ii)

イ。文献aには、茶カテキン類がコレステロール上昇抑制剤として有用であることが記載されている。また、文献bには、茶カテキン等の茶ポリフェノールが α -アミラーゼ活性阻害剤として有用であることが記載されている。

しかし、これらの文献a及びbのいずれにも、非重合体カテキン類を含有する容器詰飲料については全く記載されておらず、長期間飲用した場合の問題点等の本願発明の課題及び非重合体カテキン類を高濃度含有し、かつ炭水化物をフルクトース換算量が0.05重量%未満になるように配合することについては、何の記載がないばかりか示唆さえ存しない。

ロ。文献cには、(A)非エビ体カテキン類及び(B)エビ体カテキン類のカテキン類を溶解して含有し、それらの含有量が容器詰めされた飲料500mL当り、(イ)(A)+(B)=460～2500mg、(ロ)(A)=160～2250mg、(ハ)(A)/(B)=0.54～0.90である容器詰飲料が記載されている。そして文献cには、容器詰飲料の製造にあたり、緑茶抽出物の濃縮物を配合すること、甘味料を配合してもよいことが記載されている。

しかしながら、文献cには、本願発明の重要な構成である、非重合体カテキン類を含有する容器詰飲料において、炭水化物をフルクトース換算量が0.05重量%未満になるように配合することについては、何の記載もない。

ハ。文献dには、ポリフェノール類を配糖化することにより渋味を低減した茶飲料、さらに詳細には茶抽出物または茶飲料をデキストリン、サイクロデキストリンおよび澱粉のうちの少なくとも1種とを混ぜ、これにサイクロマルトデキストリングルカノトランスフェラーゼを作用させることを特徴とする渋みを低減した茶抽出物または茶飲料の製造法が記載されている。

また、文献eには、茶抽出物を水または含水性有機溶媒中に溶解または懸濁し、これをアルカリ性条件下、合成吸着剤と接触させてカフェインを吸着除去することを特徴とする低カフェイン茶ポリフェノールの製造法が記載されている。

しかしながら、文献d及びeのいずれにも、本願発明の課題である、非重合体カテキン類含有容器詰飲料についての長期飲用に耐えられる風味の向上、苦味渋みの安定性及び喉ごしの向上、高温保存時の色調の改善等については全く記載されていない。そして、文献d及びeのいずれにも、本願発明の重要な構成である、非重合体カテキン類を含有する容器詰飲料において、炭水化物をフルクトース換算量が0.05重量%未満になるように配合することについては何の記載もないばかりか示唆さえ存しない。

ニ。文献fには、(a)0.01～0.35%フラバノール(b)0.01～0.3%ナトリウムイオン(c)0.005～0.08%カリウムイオン(d)(i)0.05～10.0%フルクトース(ii)0.05～10.0%グルコースを供給する0.1～20%炭水化物、及び(e)水を含んでなる流体組成物が記載され、当該フラバノールの例としてはカテキン類が記載されている。

しかしながら、文献fには、本願発明の課題である、非重合体カテキン類含有容器詰飲料

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料についての長期飲用に耐えられる風味の向上、苦味渋味の安定性及び喉ごしの向上、高温保存時の色調の改善等については全く記載されていない。そして、文献fでは、グルコース及びフルクトースはいずれも0.05%以上配合されており、この文献には、本願発明の重要な構成である、非重合体カテキン類を含有する容器詰飲料において、炭水化物配合量をフルクトース換算量で0.05重量%未満にすることについては、何の記載もないばかりか示唆さえ存しない。

ホ、文献gには、茶抽出物の濃縮物又は精製物を配合した飲料であって、(A)非重合体カテキン類(B)キナ酸を含有し、成分(A)と(B)の含有重量比[(B)/(A)]が0.01~1.0である飲料が記載されている。また文献gには、これらの成分に、成分(B)の含量と等量以下のシュウ酸を含有する飲料が記載されている。

しかしながら、文献gには、飲用後のカテキン類固有の残留感については記載されているものの、本願発明の課題である、非重合体カテキン類含有容器詰飲料についての長期飲用に耐えられる風味の向上、苦味渋味の安定性、喉ごしの良さ、高温保存時の色調の安定性等については全く記載されていない。そして、文献gには、本願発明の構成である、グルコース換算量及びフルクトース換算量を一定範囲に調整することについては、何の記載もない。また非重合体カテキン類に対するキナ酸の比率を一定の範囲を調整することについては、記載されているものの、グルコース換算量及びフルクトース換算量を特定量配合した容器詰飲料が、前記本願発明の課題を解決することについては何の記載がないばかりか示唆さえ存しない。

ヘ、前記の如く、文献a~gのいずれにも、非重合体カテキン類を高濃度で含有する容器詰飲料において、炭水化物をグルコース換算量で0.0001~20重量%、とフルクトース換算量で0.05重量%未満配合するという本願発明の重要な構成については何の記載もないばかりか示唆さえ存しない。

そして、本願発明においては、明細書段落(0010)及び表1に記載の如く、非重合体カテキン類を0.01~1.0重量%、炭水化物をグルコース換算量で0.0001~20重量%、フルクトース換算量で0.05重量%未満となるように配合した容器詰飲料が、炭水化物をフルクトース換算で0.05重量%以上含有する容器詰飲料(表1中の比較例参照)に比べて、長期間の飲用性、苦味渋味の安定性、喉ごしの良さ及び色調の安定性において顕著に優れるという有利な効果を奏するものである。

従って、本願発明は、文献a~gに記載の発明を組み合わせても、当業者にとって容易に想到できない発明であることが明らかである。

Request for Participation in the Patent
Prosecution Highway Pilot Program
U.S. Patent Application No. 10/583,558
Attorney Docket No. 292752US0PCT

APPENDIX B

Notice of Reasons for Rejection

Request for Participation in the Patent
Prosecution Highway Pilot Program
U.S. Patent Application No. 10/583,558
Attorney Docket No. 292752USOPCT

APPENDIX E

English-Language Translation of Notice of Reasons for
Rejection

Mailing number: 214777

Mailing date: June 15, 2004

NOTICE OF REASONS FOR REJECTION

Patent Application No.: JP 2003-420908
Drafting Date: June 10, 2004
Examiner: Eriko Suzuki (ID 8114 4N00)
Attorney: The Patent Corporate Body Aruga Patent Office
(and six others)
Applied provisions: Article 36

The above-identified application is rejected for the following reasons. If there is any opinion to be submitted in response to this notice, Applicant should file a written response within 60 days from the mailing date of this notice.

Reasons

The present application does not fulfill the requirement stipulated in Article 36(6)(ii) of the Patent Law, as pointed out below.

The term "carbohydrate" used in claim 1 raises the possibility of encompassing broad members including any sugar other than pentose or hexose as a constituent sugar. Thus the scope of this term is obscure. Therefore, the subject matter of claim 1 is unclear.

The claims other than the above are deemed to have no reason to be rejected for this time around. However, if any reason has been found out at a later stage, a subsequent office action will be issued at that time.

Any inquiry concerning the contents of this Notice should be directed to:

Eriko SUZUKI
The third Patent Examination Department, Food and
Microorganisms
TEL: 03-3581-1101(ext. 3448)
Fax: 03-3501-0491

* * * * *

整理番号:P06121512

発送番号:214777

発送日:平成16年 6月15日

1/E

(P2003-1097)

拒絶理由通知書

1000781

特許出願の番号

特願2003-420908

起案日

平成16年 6月10日

特許庁審査官

鈴木 恵理子

8114 4N00

特許出願人代理人

特許業務法人アルガ特許事務所(外 6名)

様

適用条文

第36条

7/16

+52

この出願は、次の理由によって拒絶をすべきものである。これについて意見があれば、この通知書の発送の日から60日以内に意見書を提出して下さい。

理 由

この出願は、特許請求の範囲の記載が下記の点で、特許法第36条第6項第2号に規定する要件を満たしていない。

記

本願請求項1に記載の「炭水化物」には、五炭糖、六炭糖以外の糖類を構成糖類とするものも包含される場合もあり、その範囲が明確でない。

よって、請求項1に係る発明は明確でない。

この拒絶理由通知書中で指摘した請求項以外の請求項に係る発明については、現時点では、拒絶の理由を発見しない。拒絶の理由が新たに発見された場合には拒絶の理由が通知される。

この拒絶理由通知に関するご質問、お問い合わせがありましたら、下記までご連絡下さい。

特許審査第3部 食品、微生物 鈴木 恵理子

TEL.03 (3581)1101 内線3448

FAX.03(3501) 0491

Disclaimer:

This English translation is produced by machine translation and may contain errors. The JPO, the INPIT, and those who drafted this document in the original language are not responsible for the result of the translation.

Notes:

1. Untranslatable words are replaced with asterisks (****).
2. Texts in the figures are not translated and shown as it is.

Translated: 21:44:11 JST 09/25/2007

Dictionary: Last updated 09/07/2007 / Priority:

Decision to Grant a Patent

Application number: Application for patent 2003-420908

Date of Drafting: Heisei 16(2004) August Five days

Patent examiner: SUZUKI, Eriko 8114 4N00

Title of invention: Bottled beverage

The number of claims: 9

Applicant: KAO CORPORATION

Representative: THE PATENT CORPORATE BODY ARUGA PATENT OFFICE (and 6 others)

This application is to be granted a patent as there is no reason for refusal.

Director General(p.p.) Director(p.p.) Examiner Assistant examiner Manager for Determination
of Classification EBISUDA, Hisanori SUZUKI, Eiko FUKAKUSA, Ako 7918 8114 9548

1. Distinction of Patent: Usually
2. Reference documents: **
3. Application of Patent Law, Section 30: Nothing
4. Change of Title of Invention: Nothing
5. International Patent Classification (IPC)
A23L 2/00 F, A23F 3/16

6. Patent Classification Additionally Assigned.
Edition code 4

7. Deposition of Microorganism

8. Indication that Retroactivity of Division/conversion Is Prohibited.

Decision to Grant a Patent(Memorandum)

Application number: Application for patent 2003-420908

1. Technical Fields to Be Searched (IPC, 7th Edition, DB Name)

A23L 2/00-68 A23F 3/16-42

2. Reference patent documents

JP,05-168407,A (JP, A) JP,03-228667,A (JP, A)

3. Reference books and magazines

[Translation done.]